
SUBSTITUTE SENATE BILL 5229

State of Washington

60th Legislature

2007 Regular Session

By Senate Committee on Judiciary (originally sponsored by Senators Kline, McCaslin and Kastama; by request of Attorney General)

READ FIRST TIME 02/9/07.

1 AN ACT Relating to marketing of estate distribution documents; and
2 adding a new chapter to Title 19 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The legislature finds the practice of using
5 "living trusts" as a marketing tool by persons who are not authorized
6 to practice law or who are not acting directly under the supervision of
7 a person authorized to practice law to be a deceptive means of
8 obtaining personal asset information and of developing and generating
9 leads for sales to senior citizens. The legislature further finds that
10 this practice endangers the financial security of consumers and may
11 frustrate their estate planning objectives. Therefore, the legislature
12 intends to prohibit the marketing of services related to preparation of
13 estate distribution documents by persons who are not authorized to
14 practice law.

15 This chapter is not intended to limit consumers from receiving
16 legitimate estate planning services, including "living trusts," from
17 those authorized to practice law; but is intended to prohibit persons
18 not licensed to engage in the practice of law from the unscrupulous

1 practice of marketing legal services as a means of targeting senior
2 citizens for financial exploitation.

3 NEW SECTION. **Sec. 2.** The definitions in this section apply
4 throughout this chapter unless the context clearly requires otherwise.

5 (1) "Market" or "marketing" includes every offer, contract, or
6 agreement to prepare or gather information for the preparation of, or
7 to provide, individualized advice about an estate distribution
8 document.

9 (2) "Estate distribution document" means any one or more of the
10 following documents, instruments, or writings prepared, or intended to
11 be prepared, for a specific person or as marketing materials for
12 distribution to any person, other than documents, instruments,
13 writings, or marketing materials relating to a payable on death account
14 established under RCW 30.22.040(9):

15 (a) Last will and testament or any writing, however designated,
16 that is intended to have the same legal effect as a last will and
17 testament, and any codicil thereto;

18 (b) Revocable and irrevocable inter vivos trusts and any instrument
19 which purports to transfer any of the trustor's current and/or future
20 interest in real or personal property thereto;

21 (c) Agreement that fixes the terms and provisions of the sale of a
22 decedent's interest in any real or personal property at or following
23 the date of the decedent's death.

24 (3) "Person" means any natural person, corporation, partnership,
25 limited liability company, firm, or association.

26 NEW SECTION. **Sec. 3.** (1) Except as provided in subsection (2) of
27 this section, it is unlawful for a person to market estate distribution
28 documents, directly or indirectly, in or from this state unless the
29 person is authorized to practice law in this state.

30 (2) A person employed by someone authorized to practice law in this
31 state may gather information for, or assist in the preparation of,
32 estate distribution documents as long as that person does not provide
33 any legal advice.

34 (3) This chapter applies to any person who markets estate
35 distribution documents in or from this state. Marketing occurs in this

1 state, whether or not either party is then present in this state, if
2 the offer originates in this state or is directed into this state or is
3 received or accepted in this state.

4 NEW SECTION. **Sec. 4.** The legislature finds that the practices
5 covered by this chapter are matters vitally affecting the public
6 interest for the purpose of applying the consumer protection act,
7 chapter 19.86 RCW. A violation of this chapter is not reasonable in
8 relation to the development and preservation of business and is an
9 unfair or deceptive act in trade or commerce and an unfair method of
10 competition for purposes of applying the consumer protection act,
11 chapter 19.86 RCW.

12 NEW SECTION. **Sec. 5.** Sections 1 through 4 of this act constitute
13 a new chapter in Title 19 RCW.

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